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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/039,657	12/31/2001	Andrew S. Grover	P13477	3983

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INTEL CORPORATION
P.O. BOX 5326
SANTA CLARA, CA 95056-5326

EXAMINER

NELSON, ALECIA DIANE

ART UNIT PAPER NUMBER

2675

DATE MAILED: 05/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/039,657

Applicant(s)

GROVER, ANDREW S.

Examiner

Alecia D. Nelson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 February 2004.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6,8,9,13-17 and 20-34 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-6,8,9,13-17 and 20-34 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. ***Claims 9, 13-16, 20, 21, and 30-34*** are rejected under 35 U.S.C. 102(e) as being anticipated by Shim et al. (U.S. Patent Application Publication No. 2002/0068537).

With reference to **claims 9, 15, and 30**, Shim et al. teaches a portable handheld radiophone including a control processor (85), and optionally including a memory unit, to control the processing of audio and/or data signals received from or to be sent to the antenna, wherein it is known for the processor or memory to include a machine-readable medium (see paragraph 30). The radiophone also includes a distance sensing and audio signal level adjustment system (31) for determining an approximate distance between a user and a sensor and configuring an audio device based on the distance (see paragraphs 15-18). Further with reference to Figure 4, there is described a capacitive proximity sensor (41) connected to a resonant oscillator circuit (47) to determine a parameter of the audio device using the distance (see paragraph 25).

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With reference to **claims 13, 14, 20, 21, 31, and 33**, Shim et al. teaches that configuring the audio device comprises modifying a gain of a microphone or a volume of a speaker. With reference to **claims 32 and 34**, Shim et al. teaches that the gain of the microphone and/or the volume of the speaker increase with an increase in distance (see paragraph 32).

With reference to **claims 16**, Shim et al. teaches that the sesor use an active or passive measurement system (see paragraph 21-24).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 1-6, 22-24, and 26-29** are rejected under 35 U.S.C. 103(a) as being unpatentable over Kuga.

With reference to **claims 1, 22, and 26**, Kuga teaches a computer system comprising a processor (5), a display screen (1) and a sensor (2) to measure an approximate distance to a user (U) (see column 2, lines 30-42). The computer system also includes a memory (4) for storing image data, and a comparator (3), which converts the signal of the distance sensor (2) into signals for adjusting the display image

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or text (see column 33-40). It is further taught that upon starting the system a standard distance from the display is set and used by the comparator until a new distance is determined (see column 2, line 60-column 3, line 4).

Even though Kuga teaches that the comparator carries out the functionality of using the measurement code and configuration code as claimed, under control of the microcomputer in order to determine the distance between the user and the display in order to adjust the image or text accordingly, there is no disclosure that the comparator is a storage device. However, Kuga does teach the usage of a memory device for storing image data being a non-volatile memory such as a FRAM or EEPROM (see column 2, lines 36-42). With further reference to **claim 1** and with reference to **claims 6**, even though, Kuga teaches increasing the size of the image or text with decreasing the distance and decreasing the size of the image or text with increasing the distance between the display screen and the user (see columns 3, 16-43), there is no disclosure that the size in increases with an increase in distance or that the size decreases with a decrease in distance. However, it would be obvious to one having ordinary skill in the art, being that this system is run by software, that the software could be modified to allow the image size to be increased with an increase in distance as opposed to a decrease in distance and the image size to be decrease with a decrease in distance as opposed to a increase in distance.

Therefore it would have been obvious to one having ordinary skill in the art at the time of the invention to allow for the comparator unit to be a storage device similar to that as explained with reference to the memory device used for storing image data and

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allowing the software to be modified to allow for an increase or decrease in image size based on the user distance to the display being far or close, respectively. By allowing the storage device to be a non-volatile memory device, which allows the device to store and retain settings after power down of the system and allowing the software to be reconfigured to change image size based on the distance, the user has automatic adjustment of the size of the image or text being displayed on the flat panel device, which cause a reduction time need for making the manual adjustments through knobs or drop down menus as well as a reduction in the amount of eyestrain on the user.

With reference to **claim 2**, Kuga fails to teach that the display screen is that of a mobile system, however does teach the display device is a flat panel display device which is well known to those skilled in the art to be included in mobile systems.

With reference to **claim 3**, Kuga teaches that the sensor is located proximal to the display screen such that the distance to the user is an approximate distance between the user and the display screen (see column 3, lines 52-57).

With reference to **claims 4, 5, 27, and 28**, Kuga teaches that the sensor may be a position-sensing device, which inherently includes a camera, which acts as an active or passive type measurement system (see column 3, lines 52-57).

With reference to **claims 23, 24, and 29**, Kuga teaches with reference to Figures 2 and 3, that the size of the information includes a font size of text or an image (S).

5. **Claims 8 and 25** are rejected under 35 U.S.C. 103(a) as being unpatentable over Kuga as applied to **claims 1 and 22** above, and further in view of Fatch et al. (U.S. Patent No. 6,244,711).

Kuga teaches all that is required as explained above with reference to **claims 1 and 22** however fails to specifically teach that the system modifies brightness or contrast level of the image.

Fatch et al. teaches that the system can utilize the position and orientation information to optimize the computer system setup (e.g., display font size, brightness, ect), as well as provide additional feedback through the computer system to the user (see column 6, lines 56-60), which could include audio data as well being that it is well known in the art for computer systems to include audio I/O devices.

Therefore it would have been obvious to one having ordinary skill in the art at the time of the invention to include display brightness, contrast, and audio control in order to provide an improved computer system that allows for simple and quick adjustments of the display characteristics as well as audio characteristics based on the users placement with relation to the display screen thereby providing the user with dynamic visual and audio feedback enabling the user to obtain a proper, ergonomic orientation with the computer work environment.

6. **Claim 17** is rejected under 35 U.S.C. 103(a) as being unpatentable over Shim et al. as applied to **claim 15** above, and further in view of Kuga.

With reference to **claim 17**, while Shim et al. teaches the usage of a sensor for detecting distance radiophone, there is no disclosure of a camera including the sensor.

Kuga teaches the usage of a distance sensor wherein the sensor may be a position-sensing device, which inherently includes a camera, which acts as an active or passive type measurement system (see column 3, lines 52-57).

Therefore it would have been obvious to one having ordinary skill in the art at the time of the invention to include a camera including a sensor to detect the placement of the radiophone to the users head in order to provide an improved computer system that allows for simple and quick adjustments of audio characteristics based on the users placement with relation to the audio device thereby providing the user with dynamic audio feedback enabling the user to obtain optimum sound when operating the device.

Response to Arguments

7. Applicant's arguments filed 02/06/04 have been fully considered but they are not persuasive. The applicant's arguments directed towards claims 9-11 and 15-18 are moot in view of the new grounds of rejection. With reference to claims 1-7 the applicant argues that the reference teaches away from the invention by teaching that when the distance between the user and the LCD is short an enlarged image is displayed on the LCD and a reduced image is displayed with the distance is large. However, the

reconfiguring of the software that carry out the adjustments would be well known to those skilled in the art as explained above.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alecia D. Nelson whose telephone number is (703) 305-0143. The examiner can normally be reached on Monday-Friday 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steve Saras can be reached on (703) 305-9720. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

adn/ADN
April 19, 2004

Amr Ahmed Amr
4-30-2004